

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.207.506 qualifying education) ON PROPOSED AMENDMENT
requirements for residential certification,) AND ADOPTION
24.207.509 qualifying experience,)
24.207.517 trainee requirements, and)
24.207.2101 continuing education, and the)
proposed adoption of NEW RULE I scope)
of practice)

TO: All Concerned Persons

1. On February 15, 2007, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers (board) no later than 5:00 p.m., on February 9, 2007, to advise us of the nature of the accommodation that you need. Please contact Barb McAlmond, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2325; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail realestateappraiser@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.207.506 QUALIFYING EDUCATION REQUIREMENTS FOR
RESIDENTIAL CERTIFICATION (1) remains the same.

(2) In addition to the topics listed in ARM 24.207.505, applicants for certification as a certified residential real estate appraiser shall demonstrate that their education involved coverage of narrative report writing and direct capitalization within the income approach. The education for this class shall place particular emphasis on the appraisal of ~~one~~ two- to four-unit residential properties.

(3) through (5) remain the same.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-303, MCA

REASON: It is reasonably necessary to amend this rule to match the current requirements of the Appraiser Qualifications Board (AQB) of The Appraisal Foundation. The AQB establishes the minimum education, experience, and

examination requirements for certification as a certified residential real estate appraiser. States are required to implement appraiser certification requirements that are no less stringent than those of the AQB. The board's rule committee discovered the inconsistency at its last biennial meeting.

24.207.509 QUALIFYING EXPERIENCE (1) Acceptable appraisal experience includes, but is not limited to, the following:

(a) through (2) remain the same.

(3) All applicants claiming appraisal experience shall have made a substantial contribution in arriving at a value conclusion as evidenced by the applicant's signature on the report or the applicant's name listed in the report as ~~someone who provided significant professional assistance in the appraisal process.~~ Each appraisal shall show progressive participation in the appraisal process as documented in the experience log approved by the board.

(4) All evidence of appraisal activity must be supported by written file memoranda or written report and made available to the board for review.

(5) ~~If requested, experience documentation in the form of reports or file memoranda should be available to support the experience claimed.~~ The verification ~~for experience credit~~ experience log claimed by an applicant shall be on forms prescribed by the board which shall include:

(a) through (e) remain the same.

(6) All experience submitted to the board must be done in conformance with ~~the~~ Uniform Standards of Professional Appraisal Practice as promulgated by The Appraisal Foundation that is current at the time the appraisal is completed.

(7) and (8) remain the same.

(9) The board will use the following maximum hourly credit as a guide toward the crediting of experience hours:

(a) single family residential (one unit dwelling)	
(i) complete assignment	12
<u>self-contained report</u>	<u>40</u>
(ii) limited assignment	8
<u>summary report</u>	<u>12</u>
(iii) <u>restricted use report</u>	<u>12</u>
(b) multifamily residential (two-to-four units)	20
(i) complete assignment	20
<u>self-contained report</u>	<u>40</u>
(ii) limited assignment	40
<u>summary report</u>	<u>20</u>
(iii) <u>restricted use report</u>	<u>20</u>
(c) residential vacant land less than ten acres	8
(i) <u>self-contained report</u>	<u>16</u>
(ii) <u>summary report</u>	<u>8</u>
(iii) <u>restricted use report</u>	<u>8</u>
(d) individual residential subdivision sites (per site)	
(not to exceed 50 <u>20</u> hours - <u>two sites per subdivision</u>)	5
(i) <u>self-contained report</u>	<u>10</u>
(ii) <u>summary report</u>	<u>5</u>

(iii) <u>restricted use report</u>	<u>5</u>
(e) land (undeveloped nonresidential tracts, residential multifamily sites, commercial sites, industrial sites, land in transition, etc.)	20
(i) <u>self-contained report</u>	<u>60</u>
(ii) <u>summary report</u>	<u>20</u>
(iii) <u>restricted use report</u>	<u>20</u>
(f) rural, agricultural, or residential	
(i) <u>self-contained report</u>	<u>60</u>
(ii) <u>summary report</u>	<u>20</u>
(iii) <u>restricted use report</u>	<u>20</u>
(ii) <u>160 to 1000 acres with improvements</u>	<u>50</u>
(iii) <u>over 1000 acres with improvements</u>	<u>60</u>
(g) <u>rural, agricultural, or residential 160 to 1000 acres with improvements</u>	
(i) <u>self-contained report</u>	<u>100</u>
(ii) <u>summary report</u>	<u>50</u>
(iii) <u>restricted use report</u>	<u>50</u>
(h) <u>rural, agricultural, or residential over 1000 acres with improvements</u>	
(i) <u>self-contained report</u>	<u>120</u>
(ii) <u>summary report</u>	<u>60</u>
(iii) <u>restricted use report</u>	<u>60</u>
(i) <u>residential multifamily (5-12 units) (apartments, condominiums, townhouses, mobile home parks, etc.)</u>	35
(i) <u>self-contained report</u>	<u>70</u>
(ii) <u>summary report</u>	<u>35</u>
(iii) <u>restricted use report</u>	<u>35</u>
(i) <u>residential multifamily (13+ units) (apartments, condominiums, townhouses, mobile home parks, etc.)</u>	40
(i) <u>self-contained report</u>	<u>120</u>
(ii) <u>summary report</u>	<u>60</u>
(iii) <u>restricted use report</u>	<u>60</u>
(k) <u>commercial single tenant (office building, retail store, restaurant, service station, bank, day care center, etc.)</u>	35
(i) <u>self-contained report</u>	<u>70</u>
(ii) <u>summary report</u>	<u>35</u>
(iii) <u>restricted use report</u>	<u>35</u>
(l) <u>commercial multitenant (office building, shopping center, hotel, etc.)</u>	60
(i) <u>self-contained report</u>	<u>120</u>
(ii) <u>summary report</u>	<u>60</u>
(iii) <u>restricted use report</u>	<u>60</u>
(m) <u>industrial (warehouse, manufacturing plant, etc.)</u>	60
(i) <u>self-contained report</u>	<u>180</u>
(ii) <u>summary report</u>	<u>60</u>

(iii) <u>restricted use report</u>	<u>60</u>
(4) (n) institutional (nursing home, hospital, school, church, government building, etc.)	60
(i) <u>self-contained report</u>	<u>180</u>
(ii) <u>summary report</u>	<u>60</u>
(iii) <u>restricted use report</u>	<u>60</u>
(10) Review appraisals will be allowed <u>a maximum</u> 1/3 the allotted time found in (9).	
(11) remains the same.	

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-303, MCA

REASON: The board determined there is reasonable necessity to amend (3) to clarify that the board requires evidence of an applicant's progressive participation in the appraisal process as shown throughout the applicant's experience log. Deficiencies in showing the progress have been identified in review of applications. It is necessary to amend (4) and (5) for better organization and to simplify terminology used in the rule.

The board is amending (9) to adjust the acceptable categories and associated hours of qualifying appraisal experience to meet the current 2006 Uniform Standards of Professional Appraisal Practice (USPAP) development and reporting requirements. The board is also reorganizing (9) to enable applicants to more readily recognize where their work product falls within the categories in the rule. Section (10) is being amended to address applicant confusion by clarifying that the board limits the experience from review appraisals to a maximum of 1/3 the time allotted from the categories in (9).

24.207.517 TRAINEE REQUIREMENTS (1) through (1)(b) remain the same.

(c) have completed ~~40~~ 45 hours of approved qualifying education including 15 hours of Universal Standards of Professional Appraisal Practice (USPAP) in the principles of real estate appraisal prior to making application; and

(d) complete an additional ~~50~~ 45 hours of approved qualifying education within the next 12 months or the next renewal, whichever is greater. ~~Fifteen hours must be in the area of the Uniform Standards of Professional Appraisal Practice (USPAP).~~

(2) through (12) remain the same.

AUTH: 37-1-131, 37-1-141, 37-54-105, MCA

IMP: 37-1-131, 37-1-141, 37-54-105, 37-54-201, 37-54-202, 37-54-303, 37-54-403, MCA

REASON: The board determined it is reasonably necessary to amend both pre-application and post-application trainee education requirements in this rule. Following the 1/1/2008 changes to the required core curriculum set by the AQB, acceptable educational courses will be offered in 30 hour increments instead of 40

hour increments. The board is amending the rule to comply with the new structure of offered courses. The board further concluded that it is more reasonable to require a trainee applicant to obtain the instruction offered in the 15 hour USPAP course prior to applying for licensure rather than requiring the USPAP course after application.

24.207.2101 CONTINUING EDUCATION (1) through (3) remain the same.

(4) Application may be made for continuing education credit for participation other than as a student in appraisal education processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined by the board to be equivalent to obtaining continuing education.

(5) Every other renewal year, licensees shall provide evidence to the board of having completed at least ~~34~~ 28 hours of instruction in courses or seminars approved by the board, at least seven hours of which must be the national Uniform Standards of Professional Appraisal Practice (USPAP) course.

(6) through (10) remain the same.

AUTH: 37-1-131, 37-1-319, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-1-306, 37-54-105, 37-54-303, 37-54-310, MCA

REASON: The board determined it is necessary to amend this rule to match the current biennial hour continuing education requirement set by the AQB. In addition, the change to 28 required hours is more consistent with national education courses which are offered in 7 hour increments.

4. The proposed new rule provides as follows:

NEW RULE I SCOPE OF PRACTICE (1) Real property appraisers must adhere to a specific scope of practice and must comply with the competency provision of Uniform Standards of Professional Practice (USPAP).

(a) The licensed real property classification applies to the appraisal of noncomplex one to four residential units having a market value less than \$1,000,000 and complex one to four residential units having a market value less than \$250,000,000.

(i) The licensed real property classification appraisal of vacant or unimproved land that is utilized for one to four family purposes or for which the highest and best use is for one to four family purposes.

(ii) The licensed real property classification appraisal does not include the appraisal of subdivisions for which a development analysis or appraisal is necessary.

(b) The certified residential real property classification applies to the appraisal of one to four residential units without regard to market value or complexity.

(i) The certified residential real property classification includes the appraisal of vacant or unimproved land that is utilized for one to four family purposes or for which the highest and best use is for one to four family purposes.

(ii) The certified residential real property classification does not include the appraisal of subdivisions for which a development analysis or appraisal is necessary.

(c) The certified general real property classification applies to the appraisal of all types of real property.

(i) The certified general real property classification includes all types of real property without regard to value.

AUTH: 37-1-131, 37-54-105, MCA
IMP: 37-54-105, 37-54-201, MCA

REASON: The board determined that reasonable necessity exists to adopt this new rule to specify the allowable scope of practice for real property appraisers. Although the AQB has identified the nationally recognized parameters for the scope of real property appraisal practice and the board currently follows the parameters, the scope had not been previously delineated in administrative rule. Adoption of this new rule will make it easier for licensees and applicants to access this information.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to realestateappraiser@mt.gov, and must be received no later than 5:00 p.m., February 23, 2007.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.realestateappraiser.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2323, e-

mailed to realestateappraiser@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
KRAIG KOSENA, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 16, 2007